

## Legislative Bulletin.....September 29, 2010

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### **H.R. 946 - Plain Language Act of 2009 (*Braley, D-IA*)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 29, 2010, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 946 would require that all federal agencies to use plain language on documents that describe federal government benefits or services; pertain to filing taxes; or that explain how to comply with a requirement the federal government administers. This legislation defines “plain writing” as writing that the intended audience can readily understand and that is clear, concise, and well-organized.

H.R. 946 would require that each agency:

- Appoint a coordinator to achieve these requirements;
- Educate and train employees on plain writing;
- Establish an oversight process for compliance with this Act;
- Create a plain writing section of the agency’s website that is accessible from the homepage; and
- Designate at least one point-of -contact for implementation of this Act, and to oversee the report to Congress required by this Act.

Within nine months of enactment, each agency shall publish on the plain writing section of the agency’s website a report that describes that agency plan for compliance with this legislation. An annual report is required from each agency to be published on the website, within 18 months of enactment.

**Additional Information:** A similar bill, H.R. 3548, passed the House on April 14, 2008, by a vote of 376 – 1.

**Potential Conservative Concern:** Some conservatives may argue that these additional requirements, and appointing of staff, are burdensome to these agencies.

**Committee Action:** H.R. 946 was introduced on February 10, 2009 and referred to the House Oversight and Government Reform Committee. A markup was held on March 4, 2010 and the Committee passed the legislation by voice vote. This legislation passed the House on March 17, 2010, by a [roll call vote of 386-33](#). The legislation passed the Senate on September 27, 2010, by unanimous consent.

**Cost to Taxpayers:** CBO estimates that H.R. 946 “would cost about \$5 million a year for agencies to implement the additional employee training and reporting requirements, subject to availability of appropriated funds. The bill could also affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting the legislation would not affect revenues.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** H.R. 946 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

**Constitutional Authority:** House Committee Report 111-432 cites Article I, Section 8, Clause 18 for Constitutional Authority.

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## **H.R. 6162 – Coin Modernization, Oversight, and Continuity Act (Watt, D-NC)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 29, 2010, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 6162 would allow the Secretary of the Treasury to conduct a study on coinage metallic materials, and will consider:

- The impact of using certain coin composition materials on the material suppliers;
- The ease and use of ability to co-circulate new coinage materials, including the effect on vending machines and commercial coin processing equipment; and

- Other facts that would be affected by a change in the composition of circulating coins.

Every two years, a report will be required to be sent by the Secretary of the Treasury to the House Committee on Financial Services, and the Senate Committee on Banking, Housing, and Urban Affairs that analyzes production costs for each circulating coin, cost trends for production, and possible new metallic materials that could be used in circulating coins. The Secretary will include in the report recommendations of material changes, and recommendations to reduce production cost.

H.R. 6162 would also amend current law and would allow the Secretary to determine the appropriate number of coins to produce.

**Additional Information:** According to the Treasury, due to the demand for silver and gold investment coins in 2009, the U.S. Mint could not mint and issue any American Eagle Silver proof coins; American Eagle Silver Uncirculated coins; American Eagle Gold Proof coins; or American Eagle Gold Uncirculated coins. The Treasury claims that by allowing the Secretary to determine the appropriate number of coins to produce the U.S. Mint would be more able to keep up with demand.

**Committee Action:** H.R. 6162 was introduced on September 22, 2010, and referred to the House Financial Services Committee, which took no public action.

**Cost to Taxpayers:** A CBO report is unavailable.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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**S. 3397 — Secure and Responsible Drug Disposal Act of 2010**  
*(Sen. Klobuchar, D-MN)*

**Order of Business:** S. 3397 is scheduled to be considered on Wednesday, September 29, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** S. 3397 would amend the Controlled Substances Act (CSA) to provide for drug take-back disposal of controlled substances for ultimate users (the patient prescribed the drug) and authorizes long-term care facilities on behalf of ultimate users, if authorized by the Attorney General. Supporters argue that drug take-back programs are one way to address prescription drug abuse and protect the environment by reducing the amount of drugs entering the waterways after being flushed down the toilet.

**Delivery of Controlled Substances:** Specifically, S. 3397 would allow ultimate users (or in the case of death - any person lawfully entitled to dispose of the decedent's property), without being registered, to deliver controlled substances to another person for the purpose of disposal if the individual receiving the drug is authorized to receive and dispose of the drug and the delivery and disposal takes place in accordance with regulations set forth by the Attorney General (in order to prevent diversion of the drug). Additionally, the bill would permit the Attorney General (by regulation) to authorize long-term care facilities to also dispose of controlled substances.

**Directive to the U.S. Sentencing Commission:** The bill requires the Sentencing Commission to review and if appropriate amend the federal sentencing guidelines and policy statements to ensure that there is an appropriate penalty increase of up to 2 levels above otherwise applicable if an individual is convicted of a drug offense resulting from the authorization of that person to receive scheduled substances from an ultimate user or long-term care facility.

**Additional Background:** In January 2009, the DEA solicited public comments on the disposal of controlled substances, but has yet to move forward with regulations in the absence of authorizing legislation. S. 3397 is similar to a H.R. 5809, the “Safe Drug Disposal Act of 2010” which passed the House by voice vote on September 22, 2010. The main difference between the bill before the House today is the removal of an EPA study, GAO report, and public awareness campaign and the addition of the directive to the U.S. Sentencing Commission.

**Committee Action:** S. 3397 was introduced on May 24, 2010, and referred to the Senate Committee on Judiciary, where it was reported by Sen. Leahy with amendments, on July 29, 2010. The bill passed the Senate with amendments by unanimous consent on August 3, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** [CBO](#) estimates, based on information from DOJ, that implementing S.3397 would have “no significant effect on the department’s spending on drug control programs.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, “S. 3397 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

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## **S. 1132—Law Enforcement Officers Safety Act Improvements Act of 2010 (*Sen. Leahy, D-VT*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 29, 2010 under a motion to suspend the rules and pass the bill.

**Summary:** S. 1132 would expand the federal definition of law enforcement officers to allow certain police officers with 10 years of service (reduced from current number of years being 15) to carry concealed weapons after they retire. Among other things, the officers, during the most recent 12 month period, must have met the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual and the state in which the individual resides. The officer must also meet certain medical standards. The definition of a “law enforcement officer” is extended to the following groups:

- A law enforcement officer of the Amtrak Police Department
- A law enforcement officer of the Federal Reserve, and
- A law enforcement or police officer of the executive branch of the federal government.

A firearm under this bill does not include a machinegun, a firearm silencer, or any destructive device (as defined in section 921 of title 18, USC).

**Committee Action:** On May 21, 2009, the bill was introduced and referred to the Senate Committee on the Judiciary, which marked up the bill and reported it out of committee by voice vote, on July 27, 2010. A similar bill was introduced in the House by Congressman Forbes (R-VA) and referred to the House Committee on the Judiciary. No further public action was taken.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** No CBO score was available at press time.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Senate rules do not require a statement regarding earmarks, limited tax benefits, or limited tariff benefits. However, the bill does not appear to contain any of these.

**Constitutional Authority:** Senate rules do not require a statement of constitutional authority.

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## **Senate Amendment to H.R. 3219—Veterans’ Insurance and Health Care Improvements Act of 2009 (*Filner, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 29, 2010 under a motion to suspend the rules and pass the bill

**Major Changes Since the Last Time This Legislation Was Before the House:** The House passed H.R. 3219 by voice vote on July 29, 2009 under suspension of the rules. The bill before the House today is an amendment in the nature of a substitute that combines a number of measures previously passed by the House and the Senate and negotiated between the two chambers as part of a compromise agreement.

**Summary:** The Senate Amendments to H.R. 3219 is comprised of a number of bills introduced in the 111th Congress. The bill includes provisions that would reauthorize programs that provide services to veterans, provide for a permanent extension of a life insurance program for “totally disabled” veterans and alter disability compensation, and provide a cost-of-living (COLA) increase for certain spouses that survive servicemembers. Additionally, the bill would authorize certain Department of Veterans Affairs major medical facility leases in fiscal 2011, address national cemeteries and burial matters including an increase in burial plot allowances.

The bill includes elements from the following bills: provisions from H.R. 174; H.R. 466, as amended; H.R. 1037, as amended; H.R. 1088; H.R. 1089, as amended; H.R. 1168, as amended; H.R. 1170, as amended; H.R. 1171, as amended; H.R. 1172, as amended; H.R. 2180; H.R. 3219, as amended; H.R. 3949, as amended; H.R. 4592, as amended; and S. 728, as amended; S. 1237, as reported; and S. 3609.

## Title I – Employment, Small Business, and Education Matters

- Extends the authority for certain qualifying work-study activities for purposes of the educational assistance programs of the Department of Veterans Affairs.
- Reauthorizes the Veterans’ Advisory Committee on Education until December 31, 2013.
- Provides for an 18-month training period for new disabled veterans’ outreach program specialists, and local veterans’ employment representatives by the National Veterans’ Employment and Training Services Institute. Currently, employees must attend training courses within three years of being employed to help veterans with career counseling, job referrals, assisting with veterans’ benefits, and other services. However, there have been concerns raised over employees that were inadequately trained (provisions from H.R. 1088)
- *Database for Small Businesses.* Provides that an application by a veteran small business owner for inclusion in a database of veteran-owned small business maintained by the Secretary of VA will constitute permission for the Secretary to verify the application information. Includes provisions of notification of the small businesses and prohibits businesses from being included in the database until the Secretary can verify certain elements of the application.
- *Demonstration project regarding USERRA claims.* Requires the Secretary of Labor and the Office of Special Counsel to institute a 36-month demonstration project to start no later than 60 days after the Comptroller General submits a report assessing the proposed methods and procedures for the project. The project would allow the Office of Special Counsel to receive certain claims under USERRA.
- *Veterans energy-related employment pilot program.* Establishes a pilot program to encourage the employment of eligible veterans in the energy industry. The provision requires the Secretary of Labor to establish a pilot program to be known as the “Veterans Energy-Related Employment Program.” Under the pilot program, the Secretary shall award competitive grants to not more than three states for the establishment and administration of a program to make grants to energy employers that provide covered training, on-job training, apprenticeships, and certification classes to eligible veterans. The provision authorizes \$1.5 million for each year from FY2011 through FY2013.
- *Pat Tillman Veterans’ Scholarship Initiative.* No later than June 1, 2011, the Secretary of Veterans Affairs shall include on the Internet website of the Department of Veterans Affairs a list of organizations that provide scholarships to veterans and their survivors and, for each such organization, a link to the Internet website of the organization.

## Title II – Housing and Homelessness Matters

- Reauthorizes the Homeless Veterans Reintegration Program through 2011.
- Grant program for homeless women veterans and homeless veterans with children. Creates a grant program to entities that provide job training, counseling,

placement, and childcare services to homeless women veterans and homeless veterans with children.

- **Grant program for specially adapted housing assistive technology.** Creates a grant program for recipients who develop assistive technologies for use in specially adapted housing. Grants cannot be more than \$200,000 and the grant authority will sunset after 5 years.

### Title III – Servicemembers Civil Relief Act Matters

- Allows servicemembers to terminate a contract for cellular telephones or telephone exchange services at any time after receiving notice of orders to relocate for 90 days or more to a place that does not support the contract.
- Makes certain changes to the Servicemembers Civil Relief Act to do, among other things, the following: allows the Attorney General to bring a civil suit against any violator of the Servicemembers Civil Relief Act in any U.S. federal district court; and provide for a private right of action to an individual aggrieved by a violation of this Act and allows costs and attorneys fees.

### Title IV – Insurance Matters

- Increases the amount of supplemental insurance for totally disabled veterans from \$20,000 to \$30,000.
- *Extends Servicemembers' Group Life Insurance (SGLI) coverage.* Extends SGLI coverage from 18 months to 2 years after the date of separation or release from active duty if the servicemember is totally disabled. Applies retroactively for those separated from active duty on or after June 15, 2005.
- Terminates SGLI coverage for dependents of Ready Reservists 120 days after separation or release. Terminates coverage for dependents of any other servicemember 120 days after the member's separation or release.
- Allows eligible veterans under 60 to increase the amount of Veterans' Group Life Insurance (VGLI) coverage by \$25,000 every 5 years.
- Eliminates the reduction in amount of accelerated death benefits for terminally-ill persons insured under SGLI and VGLI. According to the House Veterans Affairs Committee, this would ensure that terminally-ill persons insured under the two program would receive the full amount of a lump-sum payment without reduction of benefit by discounting the rates as indicated in current VA regulations.
- Allows the Secretary to distinguish in specifying payments for qualifying losses between the severity of a qualifying loss of a dominant hand and of a qualifying loss of a nondominant hand in compensation under SGLI.
- Increases the maximum loan guarantee under the Veterans; Mortgage Life Insurance program from \$90,000 to \$150,000.

### Title V – Burial and Cemetery Matters

- Increases burial and funeral benefits and plot allowances for veterans.

- Allows parents of servicemembers killed in a training incident or a parent who was a hostile casualty to be buried alongside their child in a national cemetery.
- Requires the VA to report to Congress on new national cemetery sites in the following areas: southern Colorado, an area near Melbourne, Florida, and Daytona, Florida, an area near Omaha, Nebraska, near Buffalo, New York, and Rochester, New York, and an area near Tallahassee, Florida.

#### Title VI – Compensation and Pension

- Enhances disability compensation for certain disabled veterans with difficulties using prostheses and disabled veterans in need of regular aid and attendance for residuals or traumatic brain injury.
- Includes a Cost of Living Adjustment for temporary dependency and indemnity compensation payable for surviving spouses with dependent children under 18.
- Allows for dependency and indemnity compensation to survivors of former prisoners of war who died on or before September 30, 1999.
- Excludes certain amounts from consideration as income for purposes of veterans' pension benefits.
- Places conditions on adult disabled children of veterans who receive pension benefits and are covered by Medicaid.
- Codifies the 2009 COLA in rates of pension for disabled veterans and surviving spouses and children.

#### Title VII – Employment and Reemployment Rights of Members of the Uniformed Services

- Clarifies that USERRA prohibits wage discrimination against members of the Armed Forces and makes other technical amendments.

#### Title VIII – Benefits Matters

- Increases in number of veterans for which programs of independent living services and assistance may be initiated from 2,600 to 2,700.
- Allows the Secretary to pay the holder of the obligation the unpaid balance of the loan and accrued interest based on certain requirements if a VA-guaranteed home loan is modified under bankruptcy proceedings.
- Expands the eligibility for automobiles and adaptive equipment to disabled veterans and members of the Armed Forces with severe burn injuries
- Increases the amount of automobile assistance for veterans from \$11,000 to \$18,900
- Requires a comprehensive review and by the Institute of Medicine of the National Academies of the best treatments for multi-symptom illness of veterans in the Persian Gulf War.
- Extends and modifies the National Academy of Sciences reviews and evaluations of illness and service in the Persian Gulf War and Post-9/11 global operations.

- Extends various authorizations including the authority for regional office in the Republic of the Philippines, the annual report on equitable relief and the authority for the performance of medical disability examinations by contract physicians.

#### Title XIX – Construction

- Authorizes major medical facility leases for FY2011 in the following locations:
  - Billings, MT, community-based outpatient clinic: \$7,149,000.
  - Boston, MA, outpatient clinic: \$3,316,000.
  - San Diego, CA, community-based outpatient clinic: \$21,495,000.
  - San Francisco, CA research lab: \$10,055,000.
  - San Juan, PR, mental health facility: \$5,323,000.
  - Increases authorized amounts for the medical center in Long Beach, CA from \$107,845,000 to \$117,845,000.
- Requires bid savings on major VA medical facility projects to be used for other major medical facility construction projects of the Department

**Committee Action:** On June 15, 2009, the bill was introduced and referred to the Committee on Veterans Affairs, which marked up the bill and reported it out of committee by voice vote, on July 23, 2009. On July 27, 2009, the House passed H.R. 3219 by voice vote under suspension of the rules. On September 28, 2010, the Senate passed the bill with an amendment in the nature of a substitute by unanimous consent.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** CBO estimates that H.R. 3219 would reduce mandatory outlays by \$8 million over the FY2011 – FY2020 period. Additionally, CBO estimates that discretionary budget authority will be \$655 million over FY2011 – FY 2015.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The bill creates new programs and expands current ones administered by the VA.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The Senate Amendment to H.R. 3219 does not appear to contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives. However, Senate bills do not require a compliance provision. The original House bill complied with House rules.

**Constitutional Authority:** Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 3219 is provided by Article I, section 8 of the Constitution of the United States.

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**S. 3729—National Aeronautics and Space Administration Authorization Act of 2010 (*Senator Rockefeller, D-WV*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 29, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The bill authorizes \$19 billion for FY 2011, \$19.45 billion for FY 2012, and \$19.96 for FY 2013. S. 3729 authorizes funding for space flight and exploration, aeronautics research and development, and scientific research, including Earth observations and applications and other science-related activities. The bill requires the development of a new Heavy Lift Vehicle (HLV), specifying it should be in service by 2016. Additionally, the bill provides for development of a multi-purpose crew vehicle capable of supporting missions beyond low-Earth orbit with a 2016 goal for full operational capabilities.

The bill authorizes approximately \$1.6 billion for commercial cargo and crew development to be closer toward reducing the NASA Constellation program and increasing the role of commercial carriers for both astronauts and cargo. The legislation includes one additional shuttle mission scheduled for next summer in an attempt to reduce the “shuttle gap.” Until a new government vehicle developed by NASA is ready (goal of end of 2016), or commercial space flight becomes feasible, NASA will have to rely on the Russian Space Agency to ferry American and other astronauts to the International Space Station (ISS). In our obligations to the International Space Station partners, the U.S. government has pledged to maintain access to the ISS by U.S. astronauts and researchers.

The FY 2010 NASA authorization bill had funding levels of approximately \$18.7 billion. However, the NASA Authorization Act of 2008 authorized \$20.2 billion for FY2009. The FY 2009 enacted appropriation was \$18.8 billion which included \$1 billion from the “stimulus.” Some of the highlights of the legislation are as follows:

***Notable Authorizations:***

- **NASA:** FY 2011 - \$19.0 billion, FY 2012 - \$19.450 billion, FY 2013 - \$19.960 billion.
  - ◆ **Science:** FY 2011 - \$5 billion, FY 2012 - \$5.25 billion, FY 2013 - \$5.51 billion.
  - ◆ **Aeronautics:** FY 2011 - \$929.6 million, FY 2012 - \$1.07 billion, FY 2013 - \$1.11 billion.
    - **Aeronautics Research:** FY 2011 - \$580 million, FY 2012 - \$585 million, FY 2013 - \$590 million.

- **Space Technology:** FY 2011 - \$350 million, FY 2012 - \$486 million, FY 2013 - \$515 billion.
- ◆ **Exploration:** FY 2011 - \$3.87 billion, FY 2012 - \$5.25 billion, FY 2013 - \$5.26 billion.
  - **Space Launch Systems:** FY 2011 - \$1.63 billion, FY 2012 - \$2.65 billion, FY 2013 - \$2.64 billion.
  - **Commercial Cargo & Crew Development:** FY 2011 - \$612 million, FY 2012 - \$500 million, FY 2013 - \$500 million.
- ◆ **Space Operations:** FY 2011 - \$5.5 billion, FY 2012 - \$4.14 billion, FY 2013 - \$4.25 billion.
  - **Space Shuttle:** FY 2011 - \$1.6 billion, FY 2012 - \$0, FY 2013 - \$0.
  - **Space Station:** FY 2011 - \$2.78 billion, FY 2012 - \$2.95 billion, FY 2013 - \$3.13 billion.
  - **Space & Flight Services:** FY 2011 - \$1.12 billion, FY 2012 - \$1.19 billion, FY 2013 - \$1.12 billion.

**Notable Policy Provisions:** The bill states it is the policy of the human space flight capabilities, on vehicles not from the United States, should only be undertaken only as a contingency in circumstances where no United States-owned and operated human space flight capability is available, operational, and certified for flight by appropriate Federal agencies. However, the bill also reaffirms that the United States shall maintain an uninterrupted capability for human space flight and operations in low-Earth orbit, and beyond, as an essential instrument of national security. S. 3729 also establishes the goal to sustain the capability for long-duration presence in low-Earth orbit, initially through continuation of the ISS and full utilization of the United States segment of the ISS as a National Laboratory, and through assisting and enabling an expanded commercial presence in, and access to, low-Earth orbit, as elements of a low-Earth orbit infrastructure. The bill states it is the long term policy goal of the human space flight and exploration efforts of NASA to expand permanent human presence beyond low-Earth orbit. The bill requires NASA to contract with the National Academies for a review of the goals, core capabilities, and direction of human space flight based on previous authorizations.

**Space Flight Beyond International Space Station & Low-Earth Orbit:** The bill states it is the policy of NASA to develop a new Space Launch System to succeed the Shuttle with the ability to reach regions of space beyond low-Earth orbit. The System is required to meet minimum standards for cargo capabilities, capacity, supplying and supporting ISS cargo requirements, redundancy, flexibility to carry heavier payloads, and transitional needs with the goal for operational capability for the core elements not later than December 31, 2016.

The bill requires the Administrator to continue development of a multi-purpose crew vehicle to be available achieve full operational capability for the transportation vehicle developed pursuant to this subsection by not later than December 31, 2016. The vehicle is required to minimum requirements to serve as the primary crew missions beyond low-Earth orbit,

work in conjunction with payloads delivered by the Space Launch System, the capability to provide an alternative means of delivery of crew and cargo to the ISS, and the incorporation of new technologies.

The NASA authorization bill requires, to the extent possible, for the Administrator to use existing contracts, investments, workforce, industrial base, and capabilities from the Space Shuttle and Orion and Ares 1 projects for developing the Space Launch System and the multi-purpose crew vehicle.

The bill requires the Administrator to create a program with the primary purpose to prepare infrastructure at the Kennedy Space Center that is needed to enable processing and launch of the new Space Launch System.

The bill requires that within 120 days enactment, a report be provided to Congress setting forth an assessment of the effects of the retirement of the Space Shuttle, and of the transition to the Space Launch System developed, on the solid rocket motor industrial base and the liquid rocket motor industrial base in the United States.

The bill requires the Administrator to develop in-space capabilities identified as necessary elements of missions beyond low-Earth orbit and in-space technologies such as advanced propulsion, propellant depots, in situ resource utilization, and robotic payloads or capabilities that enable human missions beyond low-Earth orbit ultimately leading to Mars.

Finally, the bill requires the Administrator to issue a Congressional report, within 90 days of the Act or completion of the design phase for the Space Launch System and Multi-purpose Crew Vehicle (whichever comes first), including a comprehensive description of the reference vehicle design, capability requirements, contract requirements, civil service and contract workforce requirements, and procurement strategy, among other items.

***Commercial Crew & Cargo:*** The bill requires the Administrator to continue the existing Commercial Orbital Transportation Services program, “aimed at enabling the commercial space industry in support of NASA to develop reliable means of launching cargo and supplies to the ISS throughout the duration of the facility's operation.”

The bill allows the Administrator to enter into contacts or procurement agreements with commercial crew services during fiscal year 2011 if the following requirements are met:

- 1) The Administrator develops and makes available to the public detailed human rating processes and requirements to guide the design of commercially-developed crew transportation capabilities, which requirements shall be at least equivalent to proven requirements for crew transportation.
- 2) The Administrator provides an assessment to Congress on the potential non-government market for commercially-developed crew and cargo transportation systems and capabilities, including an assessment of the activities associated with

potential private sector utilization of the ISS research and technology development capabilities and other potential activities in low-Earth orbit.

- 3) The Administrator determines the most cost-effective means of procuring commercial crew transportation capabilities and related services in a manner that ensures appropriate accountability, transparency, and maximum efficiency in the procurement of such capabilities and services. The review must include an identification of proposed measures to address risk management and means of indemnification of commercial providers of such capabilities and services, and measures for quality control, safety oversight, and the application of Federal oversight processes within the jurisdiction of other federal agencies.
- In addition to fulfilling the requirements above, the total amount involved for all contracts and procurement agreements executed during fiscal year 2011 cannot exceed \$50 million for fiscal year 2011.

Beginning in fiscal year 2012 through the duration of the program, support follow-on commercially-developed crew transportation systems dependent upon the completion of these requirements (in addition to the completing the three requirements above).

- 4) The Administrator identifies the anticipated contribution of government personnel, expertise, technologies, and infrastructure to be utilized in support of design, development, or operations in evaluating any proposed development activity for commercially-developed crew or cargo launch capabilities.
- 5) The Administrator establishes appropriate milestones and minimum performance objectives to be achieved before authority is granted to proceed to the procurement of commercially-developed crew transportation capabilities or systems, including safety concerns.
- 6) The Administrator takes the steps to honor the commitment to developing commercial crew rescue capabilities by making available any relevant government-owned intellectual property deriving from the development of a multi-purpose crew vehicle authorized by this Act to commercial entities involved with such crew rescue capability development which shall be relevant to the design of a crew rescue capability, among other requirements.

***International Space Station:*** The bill states it is the policy of the United States, in consultation with its international partners in the ISS program, to support full and complete utilization of the ISS through at least 2020 and for NASA to pursue international, commercial, and intra-governmental means to maximize ISS logistics supply, maintenance, and operational capabilities, reduce risks to ISS systems sustainability, and offset and minimize United States operations costs relating to the ISS. The bill also requires the Administrator to ensure the safe and effective operation, maintenance, and maximum utilization of the United States segment of the ISS through at least September 30, 2020.

The bill requires the Administrator to fly the Launch-On-Need Shuttle mission currently designated in the Shuttle Flight Manifest dated February 28, 2010, to the ISS in fiscal year 2011, but no earlier than June 1, 2011, unless required earlier by an operational contingency and pending the results of a required safety assessment.

The bill requires the Administrator to provide initial financial assistance and enter into a cooperative agreement with non-profit organizations to manage the activities of the ISS national laboratory. The agreement requires the entity entering into the agreement to engage exclusively in activities relating to the management of the ISS national laboratory and activities that promote its long term research and development mission as required by this section, without any other organizational objectives or responsibilities on behalf of the organization or any parent organization or other entity. The financial assistance provided will be for the purposes of the organization to plan and coordinate ISS national laboratory research activities, criteria for flight support requirements for non-NASA scientific utilization of ISS research capabilities and facilities available in United States-owned modules, integration, and the development of scientific outreach and education activities.

The bill requires national laboratory managed experiments to be guaranteed access to, and utilization of at least 50 percent of the United States research capacity allocation: including power, cold stowage, and requisite crew time onboard the ISS through September 30, 2020.

***Shuttle Retirement:*** The NASA authorization requires the Administrator to retire the Space Shuttle orbiters pursuant to a schedule established by the Administrator and in a manner consistent with the priorities listed under this bill. In addition, to the maximum extent possibly, the bill requires the Administrator to utilize the workforce, assets, and infrastructure of the Space Shuttle program in efforts relating to the initiation of a follow-on Space Launch System.

The bill requires the Administrator to decommission any remaining Space Shuttle orbiter vehicles in accordance with established safety and historic preservation procedures and be made available for display and maintenance through a competitive procedure established under the 2008 NASA authorization bill. The bill requires an emphasis that the competitive process takes into account locations with the best potential value to the public, particularly to advance educational opportunities in science, technology, engineering, and mathematics, and with an historical connection to the Shuttle program.

***Earth Science:*** The bill requires the Director of the Office of Science and Technology Policy to provide greater coordination of the research, operations, and activities of government agencies that have programs that either contributes directly or indirectly to activities involving civilian Earth observation. *The bill provides a sense of Congress that the role of NASA in Earth Science applications shall be expanded with other departments and agencies of the federal government,* State and local governments, tribal governments, academia, the private sector, nonprofit organizations, and international partners. NASA's

Earth science data can increasingly aid efforts to improve the human condition and provide greater security.

***Space Science:*** The bill requires the Administrator to designate an officer or employee of the Science Mission Directorate to act as the responsible official for all Suborbital Research in the Science Mission Directorate and be responsible for developing short and long term strategic plans for maintaining, renewing and extending suborbital facilities and capabilities, and monitoring progress towards goals in the plans. The bill request the Director to establish a Suborbital Research Program within the Science Mission Directorate that includes the use of sounding rockets, aircraft, high altitude balloons, suborbital reusable launch vehicles, and commercial launch vehicles to advance science and train the next generation of scientists and engineers in systems engineering and systems integration which are vital to maintaining critical skills in the aerospace workforce.

The bill requires the Administrator, in conjunction with the Department of Energy, to pursue a joint approach towards restarting and sustaining the domestic production of radioisotope thermoelectric generator material for deep space and other science and exploration missions. The funds authorized by this Act for NASA would be made available under a reimbursable agreement with the Department of Energy for the purpose of reestablishing facilities to produce fuel required for radioisotope thermoelectric generators to enable future missions.

Additionally, the bill requires that before September 30, 2012, a policy for notifying federal agencies and relevant emergency response institutions of an impending near-Earth object threat if near-term public safety is at risk, and assign a Federal agency or agencies to be responsible for protecting the United States and working with the international community on such threats.

***Aeronautics & Space Technology:*** The bill requires the Administrator to coordinate with the Secretary of Defense to develop and implement joint plans for those elements of the nation's research, development, testing, and engineering infrastructure that are of common interest and use. In addition, the bill requires NASA coordination with the Federal Aviation Administration in the development of the Next Generation Air Transportation Program to explore areas for greater collaboration, including areas where NASA can help to accelerate the development and demonstration of NextGen technologies.

The bill requires the President, or designee, to develop a national policy to guide the space technology development programs of the United States through 2020. The policy shall include national goals for technology development and shall describe the role and responsibilities of each federal agency that will carry out the policy. The policy must utilize external studies that have been conducted on the state of United States technology development and have suggested policies to ensure continued competitiveness.

The bill requires the Administration to establish a Commercial Reusable Suborbital Research Program within the Space Technology Program that shall fund the development of payloads for scientific research, technology development, and education, and shall provide flight opportunities for those payloads to microgravity environments and suborbital altitudes. The bill authorizes \$15 million per year from FY 2011 through FY 2013 to carry out this provision.

***Education:*** The bill requires NASA to establish a program to annually sponsor scientific and educational payloads developed with student and educator involvement to be flown on commercially available orbital platforms, when available and operational, with the goal of launching at least 50 such payloads. In addition, the bill requires NASA to contract with providers of commercial orbital platform services for their use by the STEM-Commercial Orbital Platform program within 90 days of enactment and to enter into at least one funded, competitively-awarded contract for commercial orbital platform services and make awards within 180 days of enactment of S. 3729.

**Possible Conservative Concerns:**

***Process:*** Some conservatives believe it is inappropriate to place a \$60 billion authorization bill on the suspension calendar. While the Democratic majority has not provided open rules to allow conservative ideas, at least a placing the bill under a rule would provide members some way to express ways to improve it. Many individuals supportive of S. 3729 have stated the bill is far from perfect. Some conservatives believe that we should not pass a problematic bill simply because “we are running out of time.”

***Accountability:*** Unlike the House version, the Senate bill does not require a minimum investment of company funds by companies who submit proposals for taxpayer funds. Additionally, the bill does not return profits potentially made on commercial flight, and provides no requirement for the companies proposals to provide fixed-seat prices for crew to the ISS ( in return for up to 99% taxpayer funding of their proposal).

***NASA Mission:*** Some conservatives believe they Senate Bill may go too far in supporting the “commercial flight” industry and that NASA must continue to operate the Constellation program in order to ensure a robust human space exploration program. The original House Bill provided significantly less funding of approximately \$400 million compared to S. 3729, which totals approximately \$1.6 billion. Additionally, some conservatives may believe NASA has failed to provide adequate evidence that providing taxpayer funding for commercial crew initiatives would succeed or provide enough consideration regarding concerns over safety, marketability, liability, indemnification and intellectual property. Additionally, some conservatives have expressed concern that Congress should not abandon the Constellation Program. Former NASA Administrator under President Bush, Mike Griffin, [has been critical](#) of President Obama’s goals.

However, some conservatives believe we should encourage growth in the private sector commercial flight industry because the current mission of NASA is unsustainable and authorizing legislations must be passed to have a clear vision of NASA's future mission as the shuttle retires. Additionally, conservatives objected to the House bill because they viewed a number of programs funded under it and the continuation of certain Constellation programs as wasteful. The Citizens Council for Citizens Against Government Waste [urged](#) opposition to the House version. Finally, some conservatives believe it is important to pass legislation today, as [NASA will face numerous layoffs](#) if an authorization bill is not passed before leaving for the elections. There are two scheduled flights for the shuttle. The first of which is a cargo delivery scheduled to launch on the Discovery on November 1, 2010, to the ISS. The passage of S. 3729 would one extra space shuttle flight to the two final missions already planned before the shuttle fleet is retired in 2011.

**Additional Information:** While both NASA authorization bills proposed the same amount of authorized spending, significant differences exist between the Senate and House versions. This is primarily involving the issues proposed by President Obama to rely on the “commercial” space industry to supplement space flight and how to proceed on getting astronauts to the International Space Station (ISS) as the shuttle retires. A review of these issues is highlighted [in this](#) Washington Post article. Representative Gordon (D-TN) attempted to author an alternative bill to make the requests more inline with the Senate. However, it has become clear the Senate does not have the votes to agree to it. According to Rep. Gordon and others who support the House proposal, “It has become clear that there is not time remaining to pass a Compromise bill through the House and the Senate. For the sake of providing certainty, stability, and clarity to the NASA workforce and larger space community, I felt it was better to consider a flawed bill than no bill at all as the new fiscal year begins. I will continue to advocate to the Appropriators for the provisions in the Compromise language.”

In 2004, President Bush proposed the “Vision for Space Exploration” which has been the projected policy for the planning and operations of NASA for the remainder of his Administration. Congress has approved many of the goals of the mission in the form of passing authorizations twice since its introduction in 2004. The original Bush proposal centered on the theme of returning the focus of NASA to human exploration of outer space, specifically a return to the moon in pursuit of the long-term goal of a manned flight to Mars. The goal included ending U.S. involvement in the International Space Station and phasing out the long standing shuttle program in favor of a new module to deliver American astronauts to distant destinations. The Constellation Program was developed after the “Vision for Space Exploration” with the purpose of designing and building such a module. The Program has begun development of the Ares series of boosters to facilitate various launches and the Orion Spacecraft which will replace the shuttle as the crew compartment for future space missions.

After taking office in 2009, President Obama ordered an independent review of the program. The [Augustine Report](#) concluded that meaningful human exploration of outer space would require an additional \$3 billion in funding per year and offered five

alternative plans for NASA. In his FY 2011 Budget, President Obama has proposed a number of changes from the original “Vision for Space Exploration.” Major changes include elimination of the Constellation spacecraft development program, abandoning the goal of returning humans to the moon, encouraging private sector development in crew launch services, and an increased emphasis on technology development and science. The plan also pushed back the end use date of the International Space Station for the US from 2015 to 2020. The president eased congressional concerns of those who supported the Constellation program earlier this year by modifying his proposal so that NASA would continue to develop a heavy-lift vehicle and a crew module of its own, in addition to increased support for commercial carries.

The proposed cancellation of the Constellation has drawn the most attention because NASA has already invested around \$10 billion in the program, most of which has gone toward the development of the Ares boosters and Orion spacecraft. However, [GAO](#) has found that costs for the program are expected to continue to rise beyond projections and could force out other NASA priorities. Additionally, it is considered unlikely that the program will be able to meet deadlines proposed in President Bush’s Vision.

The Senate bill authorizes one additional flight for shuttle missions. The space shuttle was the world’s first orbital vehicle designed for reuse and has been operational since 1982. An icon of American space exploration, the space shuttle has flown in 18 successful missions in almost 30 years of service. Unfortunately the legacy of the program has been hindered by a questionable safety record including the explosions of the Challenger and the Columbia. If NASA is to end the shuttle program as planned under S. 3729 Congress must find alternatives to get U.S. astronauts to the ISS. The current proposal is to lease spaces from Russian Rockets at a cost until a government vehicle comes online or commercial travel becomes viable. This gap is expected to last at least through 2016. NASA currently has a program in place to provide commercial cargo access to the ISS called Commercial Orbital Transportation Services (COTS). Space X and Orbital Sciences Corporation are the two companies contracted through COTS, and both could potentially fulfill the role of delivering humans to space as well.

**Committee Action:** On August 5, 2010, the bill was introduced in the Senate and passed an amendment to S. 3729 by unanimous consent. The Senate then passed S. 3729 by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** Assuming appropriation of the authorized and necessary amounts, CBO estimates that “implementing S. 3729 would cost \$58 billion over the 2011-2015 period.” The bill authorizes \$58.58 billion over the FY 2011-2015 period.

**Does the Bill Expand the Size and Scope of the Federal Government?** Yes, the bill expands the mission of NASA and the federal government’s role in assistance for the private sector to launch a feasible commercial space industry. However, the bill also reduces the number of shuttle missions and the role of the Constellation program.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Senate report 111-278 does not cite compliance with House rules regarding earmarks, limited tax benefits, or limited tariff benefits.

**Constitutional Authority:** Senate report 111-278 does not cite the Constitutional authority of enacting this bill. However, some conservatives believe NASA is included in the role of providing as “common defense.”

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